

STATE OF MICHIGAN
COURT OF APPEALS

UNPUBLISHED

April 23, 2013

In the Matter of A. E. D. SITES, Minor.

No. 312306

St. Joseph Circuit Court

Family Division

LC No. 2011-000635-NA

Before: FITZGERALD, P.J., and O'CONNELL and SHAPIRO, JJ.

PER CURIAM.

Respondent father appeals as of right the trial court order terminating his parental rights to the minor child under MCL 712A.19b(3)(g), (h), (j), and (n)(ii).¹ We affirm because respondent conceded that grounds for termination were established under MCL 712A.19b(3)(n)(ii), and the trial court did not clearly err in finding that termination was in the best interests of the minor child.

The trial court did not clearly err in finding the statutory grounds were established by clear and convincing evidence. *In re Trejo Minors*, 462 Mich 341, 356-357; 612 NW2d 407 (2000). The minor child was five years old at the time of the termination hearing in July 2012. She was in a guardianship, placed with her half brother, and had been since fall 2008. Respondent last saw the child in November 2010, when there were allegations that he sexually abused her. The child disclosed consistently in therapy that respondent sexually abused her. Respondent lived with the child for the first year of her life, but admitted he used drugs at the time. He has not lived with the child since. Respondent was incarcerated in February 2011 and continued to be at the time of the termination hearing. He had a lengthy criminal history. Respondent was eligible for parole within two years, though he was considered previously and was denied.

¹ MCL 712A.19b(3)(g) involves failure by a parent to provide proper care and custody with no reasonable expectation of improvement; (h) involves present incarceration of the parent preventing proper care for the child; (j) provides grounds if there is a reasonable likelihood the child will be harmed if returned to the home of the parent; (n)(ii) provides grounds if the parent was convicted of a crime involving force and the continuation of the parent-child relationship would harm the child.

Respondent acknowledges that he conceded the grounds for termination under MCL 712A.19b(3)(n)(ii) at trial, but argues that termination was not in the child's best interests. Clear and convincing evidence of only one statutory ground is necessary to support termination. *In re Powers Minors*, 244 Mich App 111, 118; 624 NW2d 472 (2000). Thus, we will affirm on this basis alone if termination was in the child's best interests. It is therefore unnecessary to review whether termination was proper on the other grounds found by the trial court. *Id.* Nevertheless, we reviewed those grounds and conclude that trial court did not clearly err in finding that the grounds enumerated in MCL 712A.19b(3)(g), (j), or (h), were also proven.

Regarding best interests, the evidence established that termination of respondent's parental rights was in the child's best interests. MCL 712A.19b(5). The child was doing well with her guardian, with whom she had lived for four years and had a bond. She was placed with her half-sibling. The home provided permanency and stability. Additionally, the child was afraid of respondent, believing he had sexually abused her, and there was testimony that seeing him would be harmful to her. Respondent nevertheless argues that the child's placement with relatives and in a guardianship weighed against termination. We disagree on the facts of this case. "[T]he trial court may terminate parental rights in lieu of placement with relatives if it finds that termination is in the child's best interests," but the placement with relatives is an explicit factor to be considered. *In re Olive/Metts*, 297 Mich App 35, 43; 823 NW2d 144 (2012). Also, a court may, but is not required to, establish a guardianship (or in this case continue one) if the court finds it is in the best interests of the child. MCL 712A.19a(6) and (7); *In re McIntyre*, 192 Mich App 47, 52-53; 480 NW2d 293 (1991).

In this case, the trial court considered the child's placement and noted the child was bonded with the guardian and not respondent. The record supported that respondent would not be prepared to have the child placed with him for a significant period of time, if ever, and that termination was in the child's best interests. On this record, the finding that termination was in the children's best interests was not clear error. *In re Olive/Metts*, 297 Mich App at 43; MCL 712A.19b(5).

Affirmed.

/s/ E. Thomas Fitzgerald
/s/ Peter D O'Connell
/s/ Douglas B. Shapiro